



Environment and Rural Affairs Department  
Agriculture Group

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To: All interested parties on the attached list-

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## **EU COMMISSION REVIEW OF DEROGATION PROCEDURES**

I am writing to seek your views on options recently outlined by the EU Commission for dealing with future derogation requests relating to the temporary marketing of seed meeting less stringent requirements than prescribed in the seeds Directives.

An Experts Working Group was invited by the Commission to consider how current Community arrangements for dealing with derogation requests, principally for reduced germination capacity, could be made less cumbersome and protracted. The Group identified the following four options which the EU Commission outlined to the Standing Committee on Seeds at its meeting earlier this month:

1. Member States, rather than the EU Commission, to authorise derogation requests within a common procedural framework set out in a temporary experiment.
2. Retain the existing procedures [please see the attached Annex A] but to prescribe detailed implementing rules
3. Allow a system of declarable germination, or
4. Review and re-set germination standards in the seeds directives.

At this stage, no further details have been proposed.



The Commission has invited Member States to comment. If you wish to comment or to provide views for us to include in our response to the Commission, would you please do so in writing, post, fax or by Email to:

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We would normally allow 12 weeks for comments to be made and so please could these reach us by 20 August 2002. However, as further meetings of the Standing Committee on Seeds are scheduled for June and July, it would be helpful to receive your views as soon as possible.

In order to help inform debate on the questions covered by this consultation letter, the Department intends to follow its normal practice of making available to the public, on request, copies of the responses received. The Department will assume, therefore, that responses can be made publicly available in this way. If respondents indicate that they wish all, or part, of their reply excluded from this arrangement, **its confidentiality will be strictly respected.**

Copies of the responses made available to the public will be held on an “open file” held in the Library at Saughton House, Edinburgh. Copies of documents from the “open file” will be forwarded to members of the public on request. A charge will normally be levied to cover the cost of copying.

Yours faithfully

**Brian A Cockwell**  
Plants, Horticulture and Potatoes

## **DEROGATIONS**

1. The purpose of this document is to remind you about existing procedures for making derogation requests and for allocating seed quotas.

### **Background**

2. The EC Seeds Directives make provision for the temporary marketing of seed meeting less stringent requirements in situations where Community supplies of a particular species/variety are insufficient to meet demand — for example when adverse growing conditions result in seed crops not achieving the minimum germination levels required for certification. In such circumstances, Member States may seek a derogation to market quantities of specified seeds meeting less stringent requirements. Authorisations and conditions are determined by the EC Standing Committee on Seeds, which takes into account, among other things, the availability of alternative seed stocks at Community level. I.e. if a seed shortage in one Member State can be offset by surpluses of suitable seed from elsewhere within the Community, a derogation request will be reduced or denied.

3. Authorisation by the Standing Committee is not a formality. Each request is subject to rigorous examination. It is essential that the case in support of a derogation request is timely and persuasive and, preferably, has the backing of industry as a whole.

4. If an EC derogation is secured, the seed may only be marketed under General Licence provisions but before the Licence is issued, the total amount of seed authorised for marketing must first be allocated. If the derogation applies to a specific variety, it may be possible to accurately identify those merchants with an interest. Otherwise, bids would be invited by means of a general Seed Certification Information letter, which would lay out in detail the procedure for making an application and to whom the application should be directed. SEERAD, DEFRA, NAWAD or DARDNI may invite an industry organisation to assist with the handling of applications and allocations. If the quantity authorised in the derogation is less than the total quantity bid for, allocations to individual bidders would, generally, be abated on a pro-rata basis. The names of companies benefiting from the derogation together with their allocations will in future be published as a Schedule to the General Licence.

5. The following summary outlines the main sequence of events in a derogation request and in the allocation of seed quotas:

- Industry alerts SEERAD to a shortage in UK seed supply.
- SEERAD notifies DEFRA, NAWAD & DARDNI of the shortage and requests that each of the devolved administrations to seek comments/advice from appropriate industry representative organisations in their respective areas.

- If alternative supplies of suitable seed can not be sourced elsewhere within the Community, SEERAD will request that DEFRA seek a derogation in Brussels subject to the requester providing sufficient justification and supporting evidence.
- If a species derogation is authorised, DEFRA will inform SEERAD of the decision and SEERAD will immediately issue a general Seed Certification Information letter giving details of the authorisation and inviting bids from individual seed enterprises by a specified date and time.
- If a derogation is authorised for a specified variety with limited maintainership or interest, only those enterprises with a known interest will be contacted. A general Seed Certification Information letter will not be issued in such circumstances.
- Following receipt of bids, an allocation exercise will be conducted and recipients informed of the results. If total bids exceed the available derogation quota, bids will generally be reduced on a broadly pro-rata basis.
- Following the allocation of quota, a General Licence will be issued with an appended Schedule containing the names of enterprises benefiting from the derogation and the quantities of seed allocated to them.
- The General Licence and Schedule will be made publicly available.